CHENEY'S TORTURE APOLOGIST COMPLAINS CHENEY'S TORTURE PROGRAM NECESSITATES PLEA DEALS

As I suggested the other day, the news that Majid Khan has negotiated a plea deal raises interesting questions about why the government decided to offer him one.

> What I haven't seen anyone explain, however, is why the government has suddenly offered Khan a plea deal. It suggests they either can't build a case against him themselves—a possibility given that they're charging him for an assassination attempt that apparently involved no bomb—or that they've decided they don't have enough untainted evidence against Khalid Sheikh Mohammed and the other 9/11 plotters without someone like Khan testifying. It further suggests they don't want to rely on Khan's own testimony given in custody, probably because that, too, is tainted.

That seems to be what has happened. As Jason Leopold reported last week, Gitmo's prosecutors are, indeed, newly negotiating plea deals with detainees as a way to get untainted evidence.

> There are still 171 detainees imprisoned at Guantanamo. More than half have already been cleared for release. Thirty-six are expected to face war crimes charges and the remainder were deemed by an Obama administration task force as being too dangerous to release or too difficult to prosecute because the evidence against them was obtained

> through torture.
>
> Martins, who became chief prosecutor in October, has informed his staff, according to another email written by the same military prosecutor, that he is interested in obtaining information about detainees he intends to prosecute that will help the government secure convictions. The detainees who cooperate with the prosecution and show a willingness to testify against other prisoners, in a manner that "pleases" the government, would receive plea deals for the terrorist-related crimes they are accused of and could eventually be repatriated to another country.
>
> "Proffer" sessions have already taken place between some defense attorneys and detainees, where the prisoners have discussed what evidence they can offer the prosecution for use in war crimes trials, the prosecutor's email says.

Leopold goes on to describe Khan's plea deal in this context (though none of his lawyers have confirmed this is what's going on).

Predictably, Cheney's chief torture apologist, Marc Thiessen, is outraged that Gitmo prosecutors are trying to undo the damage that Cheney's torture program did.

> The United States has reportedly offered a plea deal to Majid Khan – a hardened al-Qaeda terrorist and close associate of Khalid Sheikh Mohammed – that could see him released from Guantanamo Bay within a few years.
>
> Giving this killer a reduced sentence is outrageous. Khan is no run-of-the-mill terrorist. He was directly subordinate to KSM and was selected by the 9/11 mastermind to conduct terrorist operations inside the United States.

> [snip]
>
> He had been charged with war crimes, including murder, attempted murder, spying and providing material support for terrorism — all of which could have earned him a life sentence. Instead, he might now be released.
>
> For what? Under the reported deal, Khan has agreed to testify against his fellow terrorists during the next four years at Guantanamo, after which he would then be eligible to be transferred to Pakistan. Khan knows a great deal about KSM and the core 9/11 conspirators — but it is hard to believe that his cooperation and testimony are really necessary to convict those terrorists. KSM has openly admitted — even boasted — of his role in 9/11 and dozens of other plots and attacks.

Thiessen then goes on to list a bunch of evidence collected during the period of the CIA's worst torture (which also happens to be some of the only reliable evidence traced to that period).

I guess Thiessen missed the entire Ahmed Ghalani trial? While DOJ succeeded—as they reliably do—in winning a lifetime sentence for him, he was not convicted of the most serious charges, largely because key evidence came from the coerced testimony of Ghailani and, apparently, a key witness against him. And contrary to what Thiessen and the other torture apologists have suggested, trying Khalid Sheikh Mohammed in a military commission doesn't obviate that problem. The judge in Ghailani's case made it clear the evidence would have been inadmissible in a military commission, too.

Majid Khan's plea deal was necessitated 9 years ago, when Cheney pushed torture with Khan and KSM even before it became clear whether they would testify willingly.

If Marc Thiessen has a problem with the policies Gitmo prosecutors are currently pursuing, he has only his principal, Dick Cheney, to blame.